

The Salisbury Planning Board held its regular meeting on Tuesday, February 11, 2003, in the City Council Chambers of the Salisbury City Hall at 4:00 p.m. with the following being present and absent:

PRESENT: Rodney Queen, Fred Dula, Jeff Smith, Jerry Wilkes, Elaine Stiller, Sandy Reitz, Brian Miller, Sean Reid, Len Clark, Ken Mowery, Lou Manning

ABSENT: Eldridge Williams

STAFF: Harold Poole, Patrick Kennerly, David Phillips, Dan Mikkelsen, Tammy File

The meeting was called to order by Chairman Dula. The minutes of January 28, 2003, were approved as published.

ZONING MAP AMENDMENTS

Z-1-03 Joel C. Hardman, 114 S. Caldwell Street

Location: 114 S. Caldwell Street, Salisbury
Size: Approximately 5,100 sq. ft.
Existing Zoning: R-6 (Two Family Residential District)
Proposed Zoning: B-1 (Office Institutional District)

(a) Chairman Dula convened a courtesy hearing on Z-1-03

Planner Patrick Kennerly explained that the property proposed for rezoning is located at 114 S. Caldwell Street, a request to rezone one property from its existing R-6 (Two Family zoning) to B-1 (Office Institutional zoning). The property is approximately a 5,000 sq. ft. lot. There is currently a Historic house on the property which is known as the Tarlton-Cleaver House. This property does have a preservation agreement in place, which does require that the use of the property remain single family unless the Historic Salisbury Foundation director gets written approval to change it to another use. The single family resident is a permitted use in B-1 zoning so that B-1 zoning does not automatically mean that it is in violation of the preservation agreement. Any type of agreements like this or deed restrictions are not enforced by city zoning but are private agreements.

Those speaking in favor of the zoning change request:

Joel C. Hardman, the applicant, 114 Osprey Drive, Edenton, NC – One simple statement this property is a island that is surrounded by B-1 zoning and we would just like to have it rezoned to be similar to all the other properties that surround it. The ultimate intent one day down the road would be to sell the property or to rent it and think it would make a real nice office. We would like to have the option to make it residential or as an office.

Cherathée Hager- Gave a statement from her mother Josephine Weaver, who lives in the house adjacent to the property on S. Caldwell Street and also owns the property on the corner of S. Caldwell and W. Innes Street, both of which are zoned business. Mrs. Weaver does not have

any objection to the property being rezoned , she lives in a historic property. There has been a tremendous amount of preservation done on the property by Mr. Hardman and he wants to preserve the historic value. Mr. Hardman's intent is to continue to honor the historical property but also at the same time be able to use this property for the best possible use and to receive return on their investment for restoring it. That is the message Mrs. Weaver would like to send today and would like for you to consider the rezoning.

Those speaking in opposition to the zoning change request:

Robert D. Cleaver, 5212 Quail Meadows Drive, Raleigh, NC- This property was donated by his brother William A. Cleaver to the Historic Salisbury Foundation with the intent that it would be maintained as a residential property of historical interest from the early days of Salisbury. This property has been zoned as residential a period of the last 80 years thru several owners. The terms of the preservation agreement for the Tarlton-Cleaver House provide that this property be used as only a single family residence.

Diane Dillon, with Historic Salisbury Foundation – On behalf, of the Foundation I would ask that you deny this rezoning request. The Hardman's have done a wonderful job in restoring the house as a single family residence. It was marketed as a single family resident and purchased with that intent that it remains single family. All the residential character of West Innes Street has been changed over into business. We are losing those residential areas. The current R-6 zoning is more protective of the residential nature of the structure than B-1. The Foundation feels that the best and highest use is as a single family residence to maintain that entrance into that neighborhood and to request that the zoning be denied.

Chad Morgan, 121 S. Caldwell St.. – Opposed to the change because he is restoring his home and he really doesn't want to be the only residential property on the island. Thinks the property would be better served if the zoning remains as it is.

Hilda Palmer, lives in Spencer – Recently donated old home place that her grandfather had built at 210 S. Caldwell Street to the Historic Salisbury Foundation. When they donated their property they had the understanding that the area would stay residential. Oppose the rezoning.

Edward Clement, 310 S. Ellis Street- Commended the Hardmans for a excellent job of historic preservation on this house. Preserved as a single family residence in an important area, and an important entrance to S. Caldwell Street. We all need to think hard and strong about preserving the residential quality of downtown. Every residence in downtown is important, we need people living downtown. Maintaining the residential quality of S. Caldwell Street.

The Chairman closed the courtesy hearing on this case.

(b) Board Discussion:

Sean Reid- Kinda scary to me, if we allow that zoning to take place, I know it doesn't change that many uses but still, this loses the character of residential.

Sandy Reitz- Opposes the rezoning, I appreciate what the Hardman's have done but I think it is encroachment. Sandy Reitz makes a motion to deny the rezoning. Lou Manning seconded the motion with all members voting AYE.

Jeff Smith – I will be voting to deny rezoning as well, but also want to give a reason why and give a challenge to Ms. Hager. This is an unusual situation to not rezone this to B-1, but I think this is an unusual piece of property that needs to be protected. I think R-6 in this particular location is very appropriate and the challenge to you, is that if you really believe the house next door should be residential I would really like to see your house come back and put one more piece of R-6 back right next door to it as well to keep it residential, if it is that important.

Senior Planner Harold Poole explained he would be sending Mr. Hardman a letter saying that you have until the end of next week to let us know if you would like to have this go on to City Council. If you would like this to go to City Council we will have a public hearing set up for you next month. If you don't let us know by next week the case will die right here and we will be removing the zoning sign.

Z-2S-03	Labur, Inc., 450 White Farm Road
Location:	450 White Farm Road
Size:	Approximately 20,130 sq. ft.
Existing Zoning:	A-1 (Agricultural District)
Proposed Zoning:	B-^S (Special General Business District)

(a) Chairman Dula convened a courtesy hearing on Z-2S-03

Senior Planner Harold Poole explained that the area for rezoning consists of one parcel with just over 20,000 square feet of land area. There is currently a 5,000 square foot warehouse building on the property. Most of the building was constructed in 1969, with an addition in early 1972. Zoning was extended into this area in June of 1972. Therefore, it appears the existing structure was in place when zoning was extended from (what was then) the 2-mile limit. The zoning map allows the old/new zoning lines, which separate R-8 zoned properties from A-1 zoned properties.

Those speaking in favor of the zoning change request:

Burt Harris (the applicant), 826 Maple Avenue- The building was built in 1969 and enlarged in 1972. This building has been used for warehousing and wholesale business for x-ray and physical therapy equipment and Burton Mechanical leased half of the building from him. Mr. Harris has never had a complaint as far as he knows from the neighbors. Can't use the building for retail due to lack of parking. All he wants is to have the building put into compliance with what it is wholesale warehousing.

Those speaking in opposition to the zoning change request:

None

The chairman closed the courtesy hearing on this case.

(b) Board Discussion:

Rodney Queen- The building has been there quite awhile and there has been no opposition pertaining to the building and to get it into compliance, Mr. Queen made the motion to approve as submitted, Jerry Wilkes seconded the motion with all members voting AYE except for Mrs. Reitz and Mr. Reid voting NAY.

Jeff Smith- If rezoned to B-6-S it would only be adding one more use.

Sean Reid – We don't need something ("spot zoning") that is precedent-setting when we have an alternative.

Sandy Reitz- If it were to be challenged in court, thinks the B-6-S could be defended.

Alternative Discussed by Staff

Staff had expressed concerns in the Planning Comments of the Zoning Report that if this property were to be rezoned to B-6-S, it would appear to be illegal "spot zoning", with all surrounding properties being zoned A-1.

In this case, the Planning Board and City Council have an alternative to rezoning which would allow the building to be expanded (as planned). Under Special Use Permits, Section 7.01 (5), part (a) states that the City Council may authorize a special use permit for the expansion of any nonconforming structure or use in an A-1 Agricultural or R-20 Single Family-20 Residential District provided the use existed on the site where the expansion is proposed prior to being zoned A-1 or R-20 at the time that portion of the Salisbury jurisdictional area was initially zoned by the City of Salisbury. There are other requirements pertaining to notification and recommendation from the Planning Board.

Copies of this part of the Zoning Ordinance were distributed to Planning Board members. It was discussed briefly, and how it could serve as an alternative to rezoning. The major benefit of using Section 7.01(5) (a) over rezoning to B-6-S is that it would not introduce illegal "spot zoning" to the area. The major benefit of rezoning to B-6-S over using Section 7.01 (5) (a) would be the use of Section 7.01 Nonconforming Use-specifically, subsections (c) and (d). That is, in (c) , if the use were to be dormant for a period of 180 days it supposedly could not be used for anything other than a conforming use under A-1. And, in (d), it could not be rebuilt, altered, or repaired after damage exceeding 60 percent of the fair market value immediately prior to damage.

GROUP DEVELOPMENT

G-3-86 Food Lion Store #435-2104 Statesville Blvd.

Riddick & Associates of Virginia has submitted an application for the renovation and expansion of 5,629 sq. ft. to the existing store that is located at 2104 Statesville Blvd. All zoning criteria have been met. The Technical Review Committee recommends approval of the application as submitted.

Don Riddick, architect for Food Lion – This is a change to the new type of building. Broadening central part of store to give it more symmetry.

Wesley Keith, from Winston-Salem – Owns property on the other side of Holly Avenue- wondered if the expansion would interfere with the buffer that's been built or vehicles traveling behind the store. In response from staff and Mr. Riddick it appeared that there would be negligible impact on vehicles passes through that rear area and would not have an effect on the

hedge that's been created. As far as the landscaping goes, the building will require more landscaping along Holly Avenue as an even greater buffer.

Sean Reid made the motion to approve as submitted, Rodney Queen seconded the motion with all members voting AYE.

COMMITTEE REPORTS

The Race Track Committee conducted three meeting over the past two weeks to decide first, if it wanted to recommend that race tracks be allowed or not allowed in the Salisbury Planning Jurisdiction and, second, if they are to be allowed should there be some sort of regulations, or performance standards, they would be required to follow.

Rodney Queen, as Vice Chair of the Committee (Fred Dula was Chair), gave the Committee's recommendation, which that "no action" be taken to the Zoning Ordinance. Given the conclusion of the Judge that the use is not currently permitted in the Ordinance, "no action" means the use would not be listed in the Ordinance in any district.

Brian Miller said the noise issue is the most contentious part. Jeff Smith agreed with Brian. Ken Mowery said the issue has gone well beyond race tracks.

Planning Board voted 8-3 in support of the Race Track Committee's recommendation that no action be taken. The 3 in the minority were Jeff Smith, Sean Reid and Brian Miller. Miller was on the Race Track Committee and was part of the Committee's 3-0 recommendation (Miller, Queen, and Dula) that no action be taken.

Sean Reid and Ken Mowery were also Race Track Committee members who did not attend the final committee meeting (that was scheduled at 3:45 p.m., Tuesday, just prior to the Planning Board's 4:00 meeting).

Staff is preparing a rather extensive report as a part of its study on race tracks. Council asked Planning Board to do a study as a part of the moratorium. The study was done, and a separate report will be presented to Council at a later date.

The Legislative Committee has made its recommendation, which would bring consistency to special use permits. All would go through both Planning Board and City Council (in the same manner as zoning map amendments), notification would be the same for all special use permits, and Hearing would be required for all of them.

There are now six (6) subparts instead of five (5), with child daycares separated into child daycare **homes** and child daycare **facilities**.

The Legislative Committee feels there may be further work needed on some of the types of special use permits, like for child daycare homes and facilities, but it would like to go ahead and recommend the rewriting of the whole section for consistency- knowing that Group Homes will soon be coming along that appears headed for a special use permit, as well as one or two other matters.

Planning Board voted unanimously that the Special Use Permit section of the Ordinance be rewritten for consistency, as recommended by the Legislative Committee.

That Public Hearing for City Council is tentatively being scheduled for March 18.

The Group Homes Committee scheduled a meeting for Wednesday, February 12, at 4:30 p.m., in the Council Chambers. [NOTE: The committee held that meeting and then scheduled its

next meeting and then scheduled its next meeting for Monday, at 8:30 in the 1st Floor Conference Room at City Hall.

It is hoped that the Planning Board can conduct its Courtesy Hearing on March 11 and make a recommendation that day, and then Council can conduct its Public Hearing the following week (March 18), which is the date the moratorium expires.

There being no further business to come before the Board, the meeting was adjourned.

Chairman

Secretary